

**Maine Revised Statutes**  
**Title 18-A: PROBATE CODE**  
**Article :**

**§5-304. FINDINGS; ORDER OF APPOINTMENT**

(a). The court shall exercise the authority conferred in Parts 3 and 6 so as to encourage the development of maximum self reliance and independence of the incapacitated person and make appointive and other orders only to the extent necessitated by the incapacitated person's actual mental and adaptive limitations or other conditions warranting the procedure.

[ 1985, c. 440, §§2, 13 (NEW) . ]

(b). The court may appoint a guardian or coguardians as requested if the court finds by clear and convincing evidence that the person for whom a guardian is sought is incapacitated and that the appointment is necessary or desirable as a means of providing continuing care and supervision of the incapacitated person.

[ 2009, c. 349, §1 (AMD) . ]

(b-1). If the allegedly incapacitated person files voluntary written consent to the appointment of a guardian with the court or appears in court and consents to the appointment, unless the court finds the consent suspect, the court may appoint a guardian or coguardians as requested upon a finding by a preponderance of the evidence that the person for whom a guardian is sought is incapacitated and that the appointment is necessary or desirable as a means of providing continuing care and supervision of the incapacitated person. For the purposes of this subsection, voluntary written consent is valid only if the consent was obtained by a visitor, a guardian ad litem or an attorney representing the allegedly incapacitated person and the allegedly incapacitated person gave the consent outside the presence of the person or persons seeking guardianship.

[ 2009, c. 349, §2 (NEW) . ]

(b-2). If the allegedly incapacitated person has not attended the hearing, the court must determine if an inquiry has been made as to whether that person wished to attend the hearing.

[ 2009, c. 349, §3 (NEW) . ]

(c). In its order, the court may make separate findings of fact and conclusions of law. If a party requests separate findings and conclusions, within 5 days of notice of the decision, the court shall make them. As an alternative to the appointment of a guardian under subsection (b) or (b-1), the court may dismiss the proceeding or enter any other appropriate order.

[ 2009, c. 349, §4 (AMD) . ]

**SECTION HISTORY**

1979, c. 540, §1 (NEW). 1979, c. 690, §18 (AMD). 1985, c. 440, §§2,13 (RPR). 2003, c. 323, §1 (AMD). 2009, c. 349, §§1-4 (AMD).

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